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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,228	03/30/2000	Donald F. Gordon	19880-001630US	7843

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MOSER, PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY, NJ 07702

EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/539,228

Applicant(s)

GORDON ET AL.

Examiner

Jason P. Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/2005 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hendricks et al. (U.S. Patent No. 5,798,785).

Referring to claim 1, Hendricks discloses a digital message (program control information signal in Tables A-C and Column 19, Line 28 through Column 20, Line 7) from a transport stream generator (Headend 208 in Figure 1).

Hendricks also discloses a list of demand-cast streams that are available in a transport stream being transmitted from the transport stream generator (see Table A in Column 20 for a list of program streams (Cheers, Terminator, etc.) which are

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transmitted from the Operations Center 202 to Headend 208 at Column 8, Lines 53-56), each of said demand-cast streams comprising a respective program guide page (see Column 12, Lines 40-67 and Column 13, Line 1 for receiving the program guide page and Table A in Column 20 for a menu code).

Hendricks also discloses a different demand-cast stream added to said list in response to a request by said terminal (see Column 18, Lines 33-41 for modifying the program information signal to change the list of demand-cast streams by adding a different demand-cast stream), said different demand-cast stream being accessible from said list as long as at least one other terminal is associated with said different demand-cast stream (see Column 6, Lines 53-61 for sending different program to different groups of set top terminals, therefore if a program information signal is modified and transmitted to a group of set top terminals, then the system inherently allows a different demand-cast stream to be accessible as long as other terminal can access the different demand-cast stream).

Referring to claim 5, see the rejection of claim 1.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed toward a digital message that contains a list of demand-cast streams (movies), and therefore represent non-functional descriptive material as discussed in MPEP 2106 IV.B1 (b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Lee et al. (U.S. Patent No. 6,049,539) in further view of Kevner (U.S. Patent No. 5,956,509).

Referring to claim 2, Hendricks discloses all of the limitations of claim 1, but fails to teach a digital address for the transport stream generator and an identifier for a multiplexer channel within the transport stream generator.

Lee discloses a central program distribution site, similar to Hendricks, which contains a server headend and headend equipment (see Figure 1), where the server headend is assigned an IP address (see Column 3, Lines 2-12).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify CAP, as disclosed by Hendricks, to utilize the IP address, as taught by Lee, for the purpose of providing a system and method for

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accessing an information source, such as the Internet, through a cable television distribution system (see Column 1, Lines 39-42 of Lee).

Hendricks and Lee further fail to teach an identifier for a multiplexer channel within the transport stream.

Kevner discloses a multiplexer channel identifier in the segment header 2108 in Figure 21B (see Column 44, Lines 42-48 and Lines 63-67 and Column 45, Lines 1-4).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program control information signal, as taught by Hendricks, using the multiplexer channel identifier, as taught by Kevner, for the purpose of allowing multiple concurrent service sessions to allow the concurrent transmission of messages associated with different service sessions (see Column 44, Lines 49-52 of Kevner).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Kawamura et al. (U.S. Patent No. 6,728,271).

Referring to claim 3, Hendricks discloses all of the limitations in claim 1, but fails to teach that the digital message comprises a table that is communicated in a private section of a transport stream.

Kawamura discloses a private stream an MPEG transport stream that is used to carry tables that describing demand-cast streams/video programs (see Column 6, Lines 50-52).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program control information signal, as taught by Hendricks, using the tables in the private section of the MPEG transport stream, as taught by Kawamura, for the purpose of carrying information that specifies services and events of the broadcast programs (see Column 6, Lines 58-61 of Kawamura).

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Kawamura et al. (U.S. Patent No. 6,728,271) in further view of Kaneko et al. (U.S. Patent No. 6,505,347).

Referring to claim 4, Hendricks and Kawamura disclose all of the limitations in claim 3, but fail to teach a table version number, which is incremented when the digital message changes.

Kaneko discloses a table version number, which is incremented when the digital message changes (see Column 22, Lines 1-3 and 11-14).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program information signal, as taught by Hendricks, using the adjustable version number, as taught by Kaneko, for the purpose of providing a system which is capable of altering a TV program schedule at regular intervals and taking measures to meet unexpected program change requirements (see Column 2, Lines 20-24 of Kaneko).

6. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Hendricks et al. (U.S. Patent 5,600,573) in further view of Herz et al. (U.S. Patent No. 6,020,883).

Referring to claim 5, Hendricks ('785 patent) discloses a method for communicating from a terminal (set top terminal 220) to a session manager (see Column 21, Line 66 through Column 22, Line 8 for set top terminal 220 sending information of programs watched to the network controller 214 at Headend 208).

Hendricks ('785 patent) also discloses sending to the session manager an acquisition message when the terminal acquires a demand-cast stream that is available for associate of said terminal with said demand-cast stream by said session manager (see again Column 21, Line 66 through Column 22, Line 8 for receiving program access information for each program watched (i.e. multiple acquisition messages)), said demand cast streams comprising program guide pages (see Column 12, Lines 40-67 and Column 13, Line 1 for receiving the program guide page and Table A in Column 20 for a menu code).

Although Hendricks ('785 patent) teaches sending the acquisition messages, Hendricks ('785 patent) fails to teach sending a request message to the session manager in order to acquire a demand stream that is unavailable.

Hendricks ('573 patent) discloses sending to the session manager a request message when the terminal needs to acquire a demand-cast stream that is unavailable (see Column 9, Lines 31-38 for sending a video on demand program, which unlike the regular broadcasting programs that can be simply tuned to (taught in the Hendricks '785

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patent) can be requested on-demand and are therefore unavailable in comparison to the available broadcast program).

Hendricks ('573 patent) also teaches that the data from the set-top terminal is transmitted to the session manager, through headend 208 (see Column 9, Lines 27-31)

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the cable headend 208 and operations center 202, as taught by Hendricks ('785 patent), using the video on demand functionality, as taught by Hendricks ('573 patent), for the purpose of providing advanced television features to the system (see Column 4, Lines 58-61 of Hendricks ('573 patent)).

Both Hendricks reference fail to teach a release message described in the second paragraph of claim 6.

Herz discloses a system similar to Hendricks for receiving programming information at a headend and determining what program should be sent to set top terminals (see Column 41, Line 59 through Column 42, Line 36). Herz further teaches that programs are selected and removed from a customer or a cluster of customers list according to the preference specified by the user (see Column 25, Line 66 through Column 26, Line 4 and Column 10, Lines 51-60 and Column 11, Lines 8-21 and Column 14, Lines 20-30). Therefore, Herz teaches sending, to the session manager, a release message (dislikes) when the terminal releases the demand-cast stream for disassociation of said terminal with said demand-cast stream by said session manager (removes the stream/movie from the list). Also note that Hendricks ('573 patent)

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teaches that the data from the set-top terminal is transmitted to the session manager, through headend 208 (see Column 9, Lines 27-31).

Also according to the teachings discussed above, Herz also teaching making a determination by said session manager when whether there are other terminals associated with said data stream (also note Column 20, Line 42 through Column 21, Line 63 and Column 40, Lines 1-32).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the set top terminal acquisition data, as taught by Hendricks, using the set top terminal preference data, which includes likes and dislikes, as taught by Herz, for the purpose of assisting the customer in the selection of a data service which best meets that customer's needs (see Column 8, Lines 17-19 of Herz).

Referring to claim 7, see the rejection of claim 6 (and also note the rejection of claim 1).

Referring to claim 8, see the rejection of claim 6 for Herz sending a stream released message from a terminal to a headend, and note that the transport stream generator (headend 208) of Hendricks ('573 patent) forwards the set top terminal information to the session manager (Column 9, Lines 27-31). Therefore, when Hendricks forwards the set-top terminal information to operations center 202, this set top terminal information represents the released acknowledgement message, because this message(s) will be used to remove programs from the package (see Herz in the rejection of claim 6).

The same argument applies to the stream requested acknowledgement message, but instead applying dislike information (release acknowledgement message) transmitted from the headend 208 to operations center 202, the like information represents the stream requested acknowledgement message.

Conclusion

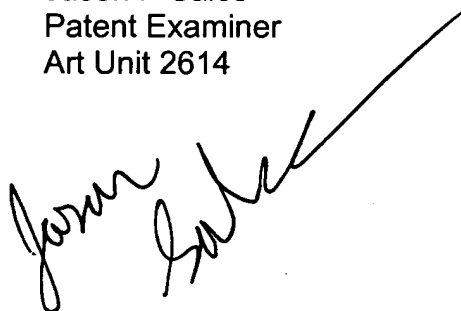
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2614

August 10, 2005

A handwritten signature in black ink, appearing to read "Jason Salce", is written over the typed name and title.